

SUBJECT: Authorizing schools to offer local remote learning programs

COMMITTEE: Public Education — favorable, without amendment

VOTE: 9 ayes — Dutton, Lozano, Allison, K. Bell, Bernal, Buckley, Huberty, K. King, VanDeaver

1 nay — Allen

3 absent — M. González, Meza, Talarico

SENATE VOTE: On final passage, August 11 — 27-2 (Schwertner, Seliger)

WITNESSES: For — Jacob Reach, Austin ISD; Ana Rush, Del Valle ISD; Kurtis Indorf, Great Hearts Texas; Lora Stegner, National Coalition for Public School Options; Michael Hinojosa, Texas School Alliance and Texas Urban Council; Craig Chick, Yes. every kid; Marga Matthews; Julie Pickren; Chloe Stegner; (*Registered, but did not testify*: Julia Grizzard, Bexar County Education Coalition; Mandi Kimball, Children at Risk; Celeste Brown, Compass Rose Public Schools; Gavin Massingill, Edgenuity; Deirdre Walsh, IGC; Jacquelyn Padgett, In Good Company; Elizabeth Nelson, Lone Star Online Academy at Roscoe; Michelle Smith, Raise Your Hand Texas; Amanda List, ResponsiveEd; Jesus Chavez, South Texas Association of Schools; Madison Yandell, Texas 2036; Barry Haenisch, Texas Association of Community Schools; Whitney Broughton, Texas Association of School Boards; Jennifer Bergland, Texas Computer Education Association; Mark Terry, Texas Elementary Principals and Supervisors Association; Suzi Kennon, Texas PTA; Brandon Garcia, Texas Public Charter Schools Association; Christy Rome, Texas School Coalition; Jonathan Saenz, Texas Values; and 22 individuals)

Against — Monty Exter, Association of Texas Professional Educators; (*Registered, but did not testify*: Carrie Griffith, Texas State Teachers Association; Idona Griffith; Emilie Kopp; Judah Rice)

On — Steven Aleman, Disability Rights Texas; Mike Morath, Texas

Education Agency; (*Registered, but did not testify*: Jennifer Toon, Coalition of Texans with Disabilities; Ryan Franklin, Educate Texas at Communities Foundation of Texas; Lukas McKenzie, Sigma Alpha Epsilon and Freemasons of Northern Nevada Lake Tahoe; Lonnie Hollingsworth, Texas Classroom Teachers Association; Von Byer and Monica Martinez, Texas Education Agency)

**BACKGROUND:** Education Code ch. 30A establishes a state virtual school network that includes several full-time online schools for grades 3-12 approved by the Texas Education Agency and a catalog of supplemental online high school courses offered by TEA-approved providers to students enrolled in Texas public schools.

**DIGEST:** SB 15 would authorize a school district or open-enrollment charter school to establish a local remote learning program to offer virtual courses outside the state virtual school network established under Education Code ch. 30A. The bill would require students enrolled in such courses to be counted toward the schools' average daily attendance in the same manner as other students. The bill would apply beginning with the 2021-2022 school year.

**Local remote learning program.** SB 15 would authorize a school district or charter school assigned an overall performance rating of C or higher for the preceding school year or the most recent school year in which a rating was assigned to operate a temporary local remote learning program to offer virtual courses outside the state virtual school network to eligible students.

A district or charter school that operated a full-time local remote learning program would have to include at least one grade level in which a state exam is required, including each subject for which an exam is required, or a complete high school program, including each course for which an end-of-course exam is required. A program also would have to offer the option for a student's parent to select in-person instruction for the student.

A district or charter school could not enroll in the remote learning

program more than 10 percent of students enrolled in the district or charter school during the 2021-2022 school year. The education commissioner could waive the enrollment cap on application by a district or charter school or in response to a public health emergency.

A virtual course offered under a remote learning program could be provided through synchronous instruction, asynchronous instruction, or a combination, and could be provided in combination with in-person instruction as appropriate to meet the needs of individual students.

*Student eligibility.* A student would be eligible to enroll in a virtual course if the student:

- was enrolled in a school district or charter school;
- had reasonable access to in-person services for the course at a district or school facility; and
- met any additional criteria, including minimum academic standards, established by the district or charter school in which the student was enrolled.

A district or charter school that offered a remote learning program would have to periodically assess the performance of students enrolled in the program's virtual courses. A district or charter school could return a student to in-person instruction if the student did not meet the criteria for enrollment and if there was a process to ensure that each student and parent had sufficient notice and opportunity to provide input before the student was removed from virtual courses.

Education Code ch. 30A provisions for the virtual school network would not apply to a virtual course offered under a local remote learning program. A student enrolled in a remote learning program would not be prohibited from enrolling in courses offered through the network.

*Attendance.* The bill would require a student enrolled in a virtual course offered under a local remote learning program to be counted toward the district's or charter school's average daily attendance in the same manner

as other students. The commissioner would have to adopt rules providing for a method of taking attendance once each school day.

A district or charter school could adopt a policy to exempt students from state minimum attendance requirements for one or more courses offered under a remote learning program.

*Teachers.* A teacher could not provide instruction for a virtual course offered under a full-time local remote learning program unless the teacher had completed a professional development course on virtual instruction. A district or charter school could not:

- assign a teacher to the program unless the teacher agreed to the assignment in writing or if it was specifically stated in the teacher's employment contract;
- directly or indirectly coerce any teacher to agree to an assignment to the program; or
- require a teacher to provide both virtual instruction and in-person instruction for a course during the same class period.

*STAAR exams.* Schools would be required to administer STAAR exams to a student enrolled in a virtual course in the same manner in which the exams were administered to other students.

*Accountability.* SB 15 would require the commissioner to assign a local remote learning program separate overall and domain performance ratings as if the program were a campus of the district or charter school. Only students who spent at least half of their instructional time in virtual courses offered under the program would be considered enrolled in the program.

*Special education.* A district or charter school that offered virtual courses under a remote learning program for students receiving special education services would have to ensure the courses met the needs of a participating student in a manner consistent with state and federal laws governing education services for students with disabilities.

*Extracurricular activities.* A student enrolled in a virtual course offered under a local remote learning program could participate in an extracurricular activity sponsored or sanctioned by the district or charter school in which the student was enrolled or by the University Interscholastic League in the same manner as other students.

*Interlocal agreements.* SB 15 would allow a school district or charter school to contract with another district or charter school to allow a student enrolled in the sending district or school to enroll in virtual courses offered under the local remote learning program of the receiving district or school. A student enrolled in virtual courses under such an agreement would be considered enrolled in the sending district or school for purposes of average daily attendance and accountability.

The bill's provisions for local remote learning programs would expire September 1, 2023.

**Foundation School Program.** SB 15 would add language to Education Code ch. 48 authorizing school districts and charter schools to provide certain off-campus courses and instructional programs and to have those courses and programs be counted toward the district's or school's average daily attendance.

In temporary provisions that would expire September 1, 2023, a district or charter school that operated during the 2020-2021 school year a full-time virtual program outside the state virtual network could:

- continue to operate the virtual program on a full-time basis;
- apply the same enrollment and transfer criteria used during the 2020-2021 school year; and
- offer the program to students in any grade level or combination of grade levels from kindergarten through grade 12 as long as the program included at least one grade level for which a state exam was administered.

**Teacher certification.** SB 15 would allow rules proposed by the State Board for Educator Certification to allow a candidate to satisfy certification requirements through an internship that provided the candidate employment as a teacher for courses offered through a local remote learning program or the state virtual school network. The provision would expire September 1, 2023.

The bill would take effect immediately if it received a vote of two-thirds of all the members elected to each house. Otherwise, it would take effect on the 91st day after the last day of the legislative session.

**SUPPORTERS  
SAY:**

SB 15 would provide an option for school districts and charter schools to design virtual learning courses around the needs of their students and to receive full average daily attendance funding for students enrolled in those courses. This temporary local option would address the demand for online learning by families concerned about their children attending in-person classes during the ongoing pandemic.

When the COVID-19 pandemic began, schools were forced to scramble to offer instruction online. While online learning led to academic losses for some students, others thrived in a virtual learning setting. SB 15 would allow districts and charter schools to implement best practices, including requiring remote courses be taught by a teacher trained in providing virtual education. The bill would protect teachers from burnout by prohibiting schools from requiring them to simultaneously teach students in class and at home.

The program created by the bill is a needed alternative to the Texas Virtual School Network, a statewide program of several full-time online schools that has a mixed record of academic success. SB 15 would better serve online students by ensuring they could access their local campus for in-person programs such as special education services or technical courses and could participate in school extracurricular activities.

The bill would include guardrails to ensure students received a high-quality learning experience, including restricting full-time local remote

learning programs to school districts and charter schools with an academic rating of C or higher. School officials could set minimum academic criteria for students enrolling in their virtual courses and require them to return to in-person learning if they were not succeeding in a remote program. By requiring districts to designate their local remote learning programs as a separate campus for accountability ratings, educators and policymakers would be able to compare their performance to in-person campuses.

During the 2020-2021 school year districts and charter schools received full funding for students learning remotely when the education commissioner waived classroom attendance requirements. Legislation enacted during the regular session of the 87th Legislature curbed the commissioner's authority to continue the attendance waiver for the 2021-2022 school year. The bill would count students who were learning remotely the same as those in the classroom for school funding purposes.

The provisions for local remote learning programs would expire September 1, 2023. Lawmakers could decide to continue the program after they receive a report from the Texas Commission on Virtual Education, which was created during the regular session by HB 3643 by K. King. The commission's report is due December 31, 2022.

**CRITICS  
SAY:**

SB 15 would implement a learning model that has been proven by declining STAAR scores to be ineffective for the majority of students. Educators recognize that virtual schools have been necessary for health and safety reasons during the pandemic and could be necessary during future emergencies, but many experts agree that there is no substitute for in-person learning. Too many students have suffered significant learning loss and emotional trauma as a result of disruptions to in-person learning. Texas should move with caution before rapidly expanding online learning by requiring a study and pilot program.

Concerns about how to fund students who are not attending school in person could be addressed through state appropriations rather than by enacting SB 15, which could give districts a financial incentive to expand

their virtual offerings even if they are not as effective for students as in-person learning.

NOTES: The House companion bill, HB 30 by K. Bell, was referred to the House Public Education Committee on August 23.